

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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EDWARD ARLEN JOHNSON,

Plaintiff,

vs.

ARLEN JOHNSON, et al.,

Defendants.

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MEMORANDUM DECISION AND  
ORDER GRANTING PLAINTIFF'S  
MOTION FOR APPOINTMENT OF  
COUNSEL

Case No. 2:05-CV-749 TS

The Court revisits, *sua sponte*, the issue of appointed counsel to represent Plaintiff in this case. Although, Plaintiff has no constitutional right to counsel,<sup>1</sup> the Court may appoint counsel in its discretion.<sup>2</sup> “The burden is upon the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel.”<sup>3</sup>

When deciding whether to appoint counsel, the Court should consider a number of factors, “including ‘the merits of the litigant’s claims, the nature of the factual issues raised in the

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<sup>1</sup>*See Carper v. Deland*, 54 F.3d 613, 616 (10th Cir. 1995); *Bee v. Utah State Prison*, 823 F.2d 397, 399 (10th Cir. 1987).

<sup>2</sup>*Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).

<sup>3</sup>*McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

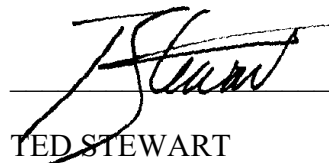
claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims.'"<sup>4</sup>

Considering the factors listed above, the Court finds that appointment of counsel for Plaintiff is necessary to allow this litigation to proceed. The Court finds that appointing counsel will assist Plaintiff in presenting his claims. Accordingly, the Court will appoint Robert Wing to represent Plaintiff on a *pro bono* basis. The Court appreciates Mr. Wing's willingness to accept this appointment.

SO ORDERED.

DATED June 20, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "T. Stewart", is written over a horizontal line.

TED STEWART  
United States District Judge

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<sup>4</sup>*Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams*, 926 F.2d at 996).

United States District Court  
District of Utah



D. Mark Jones  
Clerk of Court

Louise S. York  
Chief Deputy Clerk

June 20, 2008

Edward Arlen Johnson  
920 E. North Union Ave  
Midvale, Utah 84047

RE: Pro Bono Counsel Appointment

Dear Mr. Johnson:


The contact information for Mr. Robert Wing who has accepted a pro bono appointment in this case is;

Mr. Robert Wing, Esq  
Prince, Yeates & Geldzahler  
175 East 400 South Suite 900  
Salt Lake City, Utah 84111

The telephone number is 524- 1000.

Sincerely,

D. Mark Jones, Clerk

By   
Louise York  
Chief Deputy